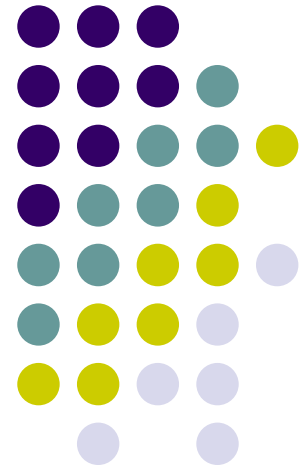
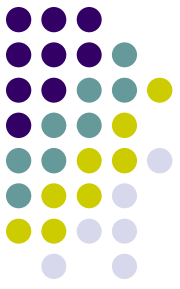


CHAPTER 6

LABOR STANDARDS



Chapter 6: LABOR REQUIREMENTS



An overview of
federal and state labor requirements that
govern wages and working conditions for
laborers and mechanics who are
employed under
construction contracts funded with
CDBG funds.

Federal “DAVIS-BACON” Rules

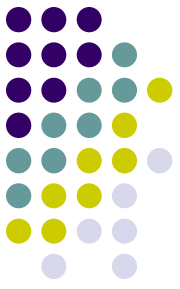


- ✱ CDBG requires compliance with the federal Davis-Bacon Act prevailing wage requirements in all CDBG-funded construction projects.
- ✱ USDA/RD and the two SRF Programs – when they are the sole funders -- do not require compliance with the federal Davis-Bacon Act.
- ✱ But if CDBG funds are involved in a project, Davis-Bacon rules apply to the whole project.
- ✱ Federal labor requirements will generally supersede those of the state.



CDBG Grantee Responsibilities

Designate a Monitor for Davis-Bacon Compliance



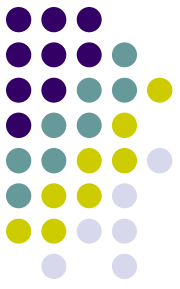
- ★ Each CDBG grant recipient must identify a person who is responsible for compliance in their CDBG Project Management Plan. There are weekly duties that must be performed -- to assure the rights of workers to receive fair pay and have safe working conditions.
- ★ The designated person could be the Project Manager assigned overall administrative responsibility or the Project Engineer or the Project Architect .

Include Labor Standards Provisions in Bid Documents



- ★ Federal labor regulations require specific labor standards/labor protection language be included in all solicitations for bids and contracts for projects receiving federal financial assistance.
- ★ Specific bid and contract language and certifications are provided for construction contracts in ***Exhibit 9-B*** (CDBG Supplemental General Conditions) and ***Exhibit 6-A*** (HUD 4010 Form, Federal Labor Standards Provisions).

Request Wage Rate Determination



- ☀ Request a federal Davis Bacon “wage rate determination” for inclusion in a bid solicitation document from CDBG within the 90 days prior to the scheduled bid opening date. (*Exhibit 6-B*)
- ☀ CDBG grantees must provide CDBG Specialist with:
 - ☐ estimated contract cost
 - ☐ project location
 - ☐ type of work
 - ☐ anticipated bid opening date



Wage Rate Determinations

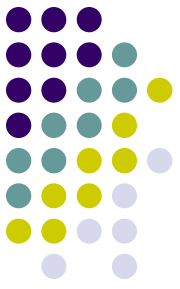
Federal wage rate determinations in four categories are issued by the U.S. Department of Labor for each county in Montana in four categories:

- 1) Heavy Construction
- 2) Highway Construction
- 3) Building Construction, and
- 4) Residential Construction.

Periodic modifications are issued as well.

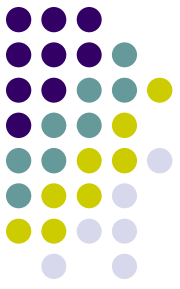
Be sure you have the most current wage rate decision.

Zone Pay or Zone Hourly Rate



- ❑ “**Zone hourly rate pay**” is an amount that is to be **added to the base hourly rate** when calculating pay, including both regular pay and overtime pay.
- ❑ The Davis-Bacon published base hourly rate, combined with the zone pay amount (**zone hourly rate**), become an employee’s new base rate for that project (on which all pay, regular and overtime, is based).
- ❑ “Zone pay is not “travel pay.” It is **additional hourly pay** related to proximity to services.

Unclassified Workers: Job Classifications Not Listed in the Wage Determination



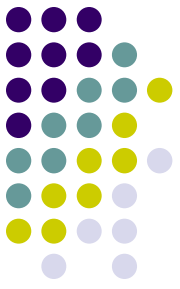
- ☀ Consult with your CDBG Liaison.
- ☀ CDBG will help you find an appropriate job classification and will get a determination of the prevailing wage rate to be used.
- ☀ Complete HUD Form 4230A, *Report of Additional Classification and Wage Rate* (**Exhibit 6-C.1**)

Re-verify the Wage Rate in the Solicitation for Bids

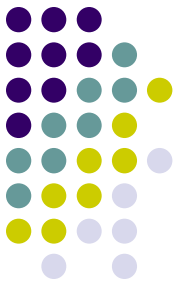


- ❑ Not less than 15 work days prior to the bid opening, contact your CDBG liaison to determine if the Davis-Bacon wage rate decision listed in the advertised bid solicitation is **still current**.
- ❑ **Modifications** to the wage rate determination that are posted at the Davis-Bacon webpage 10 days before bid opening have to be used.
- ❑ Advance notification of wage rate changes is posted every Friday.

Time Limitations for Wage Rate Determinations



- If a requested wage determination is not used within 180 days of issuance, it is void and a new one must be requested.
- If a contract is not awarded within 90 days of bid opening, any applicable later modifications to the original wage determination must be included in contract.
- If construction has not commenced within 90 days of signing of contract, any applicable later modifications must be included in the contract.



Verify Bidder Eligibility

- ❖ Contact your CDBG liaison to obtain CDBG's clearance on all proposed prime contractors and subcontractors prior to awarding contracts.
- ❖ Notification must be given to CDBG of the name of the firm and its principal owner(s) selected for contract negotiation on a pending contract. **(Sample letter in Exhibit 6-D)**
- ❖ CDBG will use the federal *Excluded Parties List System* to assure that proposed contractors are not on the debarred/excluded list.

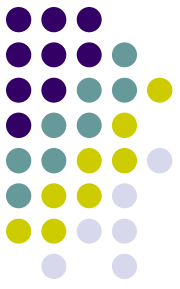
Inform Contractors with a Preconstruction Conference



Following the contract award for projects involving CDBG funds, a **preconstruction conference** must be held.

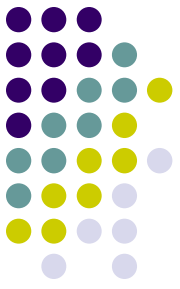
- It provides an opportunity prior to project construction for giving instructions to the contractor.
- Include all subcontractors. Davis-Bacon and all labor safeguard rules apply to all contractors and subcontractors.
- Invite your CDBG liaison.
- Preconstruction Conference Planning Guide
(Exhibit 6-E)

Included in the Preconstruction Conference



- federal Davis-Bacon Act prevailing wage requirements
- posting prevailing wages continually at the job site
- employment of apprentices or trainees
- weekly pay for employees
- submission of weekly payroll
- weekly payroll review by the CDBG grant recipient's representative
- penalties if prevailing wage requirements and labor standards requirements are not complied with
- payment of overtime
- equal employment opportunity requirements.

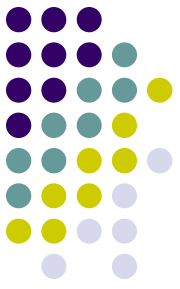
Preconstruction Conference (cont'd)



- employment of minorities and local workers
- use of DBEs and local businesses;
- notices that must be posted at job site
- the use of bona fide, registered subcontractors
- key responsibilities of contractor, engineer and/or architect, and project manager
- employee interviews by the CDBG grantee's representative

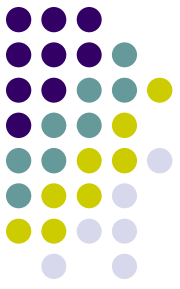
**Record minutes of the preconstruction conference.
Maintain on file and forward a copy to CDBG liaison.**

Required Construction Site Notices



- Form WH-1321, *Notice to Employees Working on Federal or Federally Financed Construction Projects* (See Exhibit 6-F)
- Applicable Davis-Bacon federal wage rate decision(s)
- *Equal Employment Opportunity* poster (See Exhibit 6-G)
- *Job Safety and Health Protection* poster (See Exhibit 6-H)

Contractor Reporting Requirements



- Signed weekly Payroll Reports must be submitted weekly (within 7 days following completion of the work week) by the prime contractor and all subcontractor(s)
- Contractors are urged to use the standard Department of Labor Payroll Form WH-347 (**See Exhibit 6-I**)
- Contractors **may also use computerized weekly payrolls in lieu of Payroll Form WH-347** if they contain the same information.

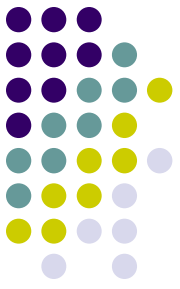
Step 7 - Monitor Performance of Contractor(s)



Project manager's responsibilities:

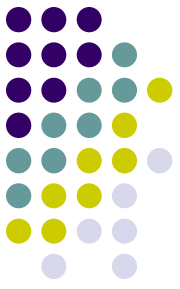
- Compare the weekly payroll reports to the required prevailing wage rates. Identify and errors and start remedial action.
- **Document weekly reviews of payrolls. (CDBG Manual, page 6-14 – initial and date; notes concerning issues.)**
- Conduct on-site inspections to ensure that required notices and copies of the applicable wage rates are posted. **(See Exhibit 6-K)**

Monitor Performance of Contractor(s) – cont'd



- **Conduct interviews with construction employees** to confirm job classifications and pay rates.
 - At least once a month
 - With a representative of each classification of laborers
 - At least 10 percent of workforce
 - **Exhibit 6-P: needs to be submitted to your CDBG liaison with ALL draw requests from any funding source.** Exhibit 6-P is the certification that weekly payroll reviews have been conducted.

Investigate Standards Violations

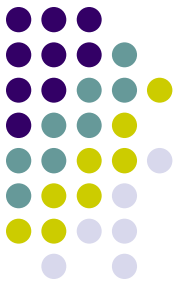


CDBG recipients are responsible for investigating violations of prevailing wage and other labor requirements.

If a violation is confirmed:

- First, work with contractor on an informal basis to resolve the problem;
- If contractor refuses to address the violation, contact your CDBG liaison verbally and in writing.
- Unresolved findings of labor standards violation could result in debarment and make a contractor ineligible for participation in CDBG-assisted projects in the future.

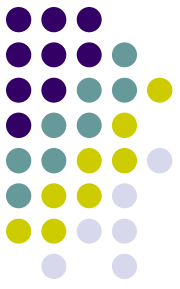
Maintain Labor Standards File



A CDBG project's labor standards file should include:

- all applicable wage rate decisions
- record that labor standards provisions are included in bid package and contracts
- MDOC/CDBG notice of contractor eligibility (not on the Excluded Parties List -- "debarred")
- the preconstruction conference minutes
- the Contract Reporting Form (**Exhibit 5-J**)
- evidence that all required notices are posted at the construction site
- evidence that the contractors' weekly payroll reports have been verified as correct (**Exhibit 6-P**)

Labor Standards File - Continued



- record of construction worker interviews
- evidence of any violations with supporting documentation
- evidence of the resolution of any violations
- copies of lien releases; and
- completed volunteer certification forms.

**See *CDBG Project Monitoring Guide*
Exhibit 12-A
Labor Standards section.**